

TO: The Honorable Board of Supervisors

FROM: F. Craig Meadows, County Administrator
L. Carol Edmonds, Assistant County Administrator

DATE: February 14, 2011

SUBJECT: AGENDA REPORT

I. CALL TO ORDER

II. INTO CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711 (5) Discussion Concerning a Prospective Business or Industry or the Expansion of an Existing Business or Industry Where No Previous Announcement Has Been Made of the Business or Industry's Interest in Locating or Expanding Its Facilities in the Community.

1. Project # 2011-004 (formally Project #2010-007)

(7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel

1. Joinder Study with the Blacksburg, Christiansburg, VPI Water Authority

- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body

1. New River Valley Planning District Commission

III. OUT OF CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

IV. CERTIFICATION OF CLOSED MEETING

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

NAYS

ABSENT DURING VOTE

ABSENT DURING MEETING

V. INVOCATION

VI. PLEDGE OF ALLEGIANCE

VII. DELEGATIONS

**A. SUBJECT: PRESENTATION – SCHOOL BOARD
BUDGET FOR FY 2011-2012**

Presentation of Montgomery County School Board Budget for FY 2011-2012

Brenda Blackburn, Superintendent, will be present to present the Montgomery County School Board's budget for FY 2011-2012.

**B. SUBJECT: VIRGINIA DEPARTMENT OF
TRANSPORTATION**

Virginia Department of Transportation

David Clarke, VDOT Residency Administrator, will update the Board of Supervisors on road issues/concerns in Montgomery County.

C. SUBJECT: STORMREADY COMMUNITY

Montgomery County - StormReady Community

Neal Turner, Montgomery County Emergency Services Coordinator, will make a presentation on Montgomery County's recent designation as a StormReady Community.

VIII. PUBLIC ADDRESS

IX. ADDENDUM

X. CONSENT AGENDA

XI. OLD BUSINESS

**A. SUBJECT: SPECIAL USE PERMIT – WILLIAM AND
CAROLYN KING**

**R-FY-11-
SPECIAL USE PERMIT
WILLIAM MARK KING
FOR THE PURPOSE OF ALLOWING A CONTRACTOR’S STORAGE YARD
3070 SEVEN MILE TREE RD IN THE RINER MAGISTERIAL DISTRICT**

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the request by William Mark King for a special use permit to allow a contractor’s storage yard is consistent with the County’s Comprehensive Plan and is hereby approved with the following conditions:

1. This special use permit authorizes use of the property for a contractor’s storage yard and shall conform to the site plan included within application materials submitted October 28, 2010, and “Proposed Contractor’s Storage Yard Area and Property Line Buffer map” prepared by Montgomery County GIS, dated January 13, 2011. No retail sales of any nature shall be permitted on the property.
2. No more than four (4) employee vehicles, associated with employees of the business who do not reside on the premises, shall be parked on the property at any given time.
3. The contractor’s storage yard shall not be open to the public and shall create no exterior impacts including noise, vibration, glare, odors, or electrical interference, beyond limits allowed in the Montgomery County Code.
4. Equipment and vehicles stored on the property shall be in good working condition at all times and shall be owned or leased by the property owner or property owner’s excavation company. No more than fifteen (15) pieces of said equipment and/or vehicles associated with the business shall be on the property at any given time.
5. Hours of operation shall be limited to 6:00 am through 9:00 pm except for snow removal preparation and/or periods of inclement weather.
6. No trash, litter or debris shall accumulate or be stored on the property.

7. There shall be no outdoor storage of materials, tools, etc.
8. Storage of all excavation equipment and machinery shall be screened from view of adjacent properties.
9. Any lighting installed on the property shall be dusk to dawn, shielded fixtures to avoid glare onto adjacent properties and night sky, and shall comply with Montgomery County Zoning Ordinance 10-46(9) Performance Standards.
10. A buffer shall be maintained consisting of mature evergreen vegetation and existing privacy fence (along Cupp property), on the south, west, and northern boundaries, as shown on the 2008 Montgomery County Aerial Photography and concept plan dated October 28, 2010 (aerial photo map attached). Replacement of buffer, if necessary, shall be completed within thirty (30) days (season permitting). Tree size associated with replacement of existing evergreen buffer shall be in compliance with zoning ordinance requirements.
11. A natural vegetative buffer shall be provided, consisting at a minimum of one row of White Pine (or equivalent evergreen screening tree) with a minimum of thirteen (13) trees, equal space apart, on the eastern boundary and on the portion of the southern boundary where no evergreen vegetative buffer currently exists to mitigate possible negative effects on the view shed for Interstate I-81, and properties identified as tax map # 105-A-16 (Oscar Phillips) and 105-10-2 (Lillian Cupp), account # 014448 and 023215 (see "Proposed Contractor's Storage Yard Area and Property Line Buffer map" prepared by Montgomery County GIS, dated January 13, 2011). Trees shall be a minimum of 6' tall at planting, and plantings shall be completed by May 15, 2011.

The property is located at 3070 Seven Mile Tree Rd., and is identified as Tax Parcel No(s). 104-1-12 (Acct Nos.023225), in the Riner Magisterial District (District D). The property currently lies in an area designated as Rural in the 2025 Comprehensive Plan.

JUSTIFICATION:

At a Regular Meeting on January 12, 2011, the Planning Commission, by a vote of 5-0 recommended approval with proffered conditions to the Board of Supervisors. See **TAB D** for a copy of proffered conditions and a revised boundary line map showing the location of the contractor's storage yard.

**B. SUBJECT: ORDINANCE AMENDING CHAPTER 10,
SECTION 10-37**

**ORD-FY-11-
AN ORDINANCE AMENDING CHAPTER 10 ENTITLED ZONING,
ARTICLE VI OF SECTION 10-37 FLOOD DAMAGE PREVENTION OVERLAY
OF THE COUNTY OF MONTGOMERY, VIRGINIA BY REQUIRING
THAT ANY MODIFICATION, ALTERATION, REPAIR, RECONSTRUCTION OR
IMPROVEMENT OF ANY KIND TO A STRUCTURE LOCATED IN THE
FLOODPLAIN THAT AMOUNTS TO LESS THAN FIFTY (50) PERCENT OF THE
STRUCTURE MARKET VALUE SHALL BE CONSTRUCTED IN COMPLIANCE
WITH SECTION 10-37, THE FLOOD DAMAGE PREVENTION OVERLAY**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Article VI of Section 10-37 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

Sec. 10-37. Flood damage prevention overlay.

Article VI--Existing Structures in Floodplain Areas

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions but which is not in conformity with these provisions may be continued subject to the following conditions:

1. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard emergency practices that the proposed expansion would not result in any increase in the base flood elevation.
2. Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value shall be undertaken only in compliance with this Chapter and conform to the VA USBC.
3. The modifications, alterations, repair, reconstruction or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this chapter and shall require the entire structure to conform to the VA USBC.

JUSTIFICATION:

At a Regular Meeting on January 12, 2011, the Planning Commission, by a vote of 8-0 approved the proposed ordinance amendment and recommended approval to the Board of Supervisors. See TAB E.

C. SUBJECT:

**ORDINANCE AMENDING CHAPTER 10,
SECTION 10-41**

ORD-FY-11

**AN ORDINANCE AMENDING CHAPTER 10 ENTITLED ZONING, SECTION 10-41
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA
BY ALLOWING A TEMPORARY FAMILY HEALTH CARE STRUCTURE
AS DEFINED BY SECTION 15.2-2292.1 OF THE CODE OF VIRGINIA
AS A PERMITTED ACCESSORY STRUCTURE ON ANY PROPERTY
ZONED FOR A SINGLE FAMILY DETACHED DWELLING OWNED OR OCCUPIED
BY A CAREGIVER AS HIS OR HER RESIDENCE**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning Section 10-41 of the Code of the County of Montgomery, Virginia, shall be amended and reordained by adding Section 10-41 (2A) as follows:

(2A) Temporary Family Health Care Structures.

Notwithstanding any other provision one temporary family health care structure, as a permitted accessory dwelling may be placed on any property zoned for a single family detached dwelling owned or occupied by a caregiver as his or her residence subject to the following:

1. The temporary family health care structure (the structure) shall be limited to one (1) occupant who shall be the mentally or physically impaired person.
2. The structure shall have a maximum gross floor area of three hundred (300) square feet.
3. The structure shall comply with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code.
4. The structure shall not be placed on a permanent foundation.
5. The structure shall be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.

6. No signage that advertises or promotes the structure shall be permitted on the structure or elsewhere on the property.
7. Written certification verifying the status of the mentally or physically impaired occupant of the structure shall be provided by a physician licensed by the Commonwealth.
8. Evidence of compliance with this Section must be provided annually on the anniversary date of the initial zoning approval, including a current written certification by a physician licensed by the Commonwealth.
9. The structure shall be removed within thirty (30) days after the mentally or physically impaired person is no longer receiving or no longer in need of the assistance for which the structure was provided.

For Purposes of this Section *Temporary Family Health Care Structure* shall mean a transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, (caregiver and mentally or physically impaired are defined in §15.2-2292.1 of the Code of Virginia) that is primarily assembled at a location other than its site of installation.

JUSTIFICATION:

At a Regular Meeting on January 12, 2011, the Planning Commission, by a vote of 8-0 approved the proposed ordinance amendment and recommended approval to the Board of Supervisors. See TAB F.

XII. NEW BUSINESS

A. SUBJECT: DESIGNATE A PORTION OF US 460 IN MONTGOMERY COUNTY THE "WILLIAM PRESTON MEMORIAL HIGHWAY"

**R-FY-11-
DESIGNATE A PORTION OF US 460 IN
MONTGOMERY COUNTY THE
"WILLIAM PRESTON MEMORIAL HIGHWAY"**

WHEREAS, Colonel William Preston served as a member of the House of Burgesses and was the county lieutenant, sheriff, coroner and surveyor for Fincastle County; and

WHEREAS, In 1776 when Montgomery County was formed, Colonel Preston was appointed as county lieutenant and had almost total authority over the new county's affairs; and

WHEREAS, In 1774 Colonel Preston sought to bring the commerce and wealth of Tidewater Virginia westward by building the Historic Smithfield Plantation which was considered one of the most elegant and sophisticated houses west of the Blue Ridge Mountains; and

WHEREAS, During his lifetime, Colonel Preston fought for the freedom of the people in this area and the ability to begin the great migration westward; and

WHEREAS, From his lineage, either through direct descendant or by marriage, sprang three governors of Virginia and numerous statesmen, congressmen and senators; and

WHEREAS, What better way to recognize his importance and many contributions to this area than dedicating a portion of US 460, the road that runs in front of his former plantation, to him and his legacy, a road that is also the same route by which settlers moved west; and

WHEREAS, By this recognition we continue to tell the story of one of Montgomery County's earliest and foremost patriots.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the Board of Supervisors requests the Commonwealth Transportation Board to designate the portion of US 460 from the Giles/Montgomery County line to Southgate Drive as "William Preston Memorial Highway".

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the Honorable John Edwards, the Honorable Ralph Smith, the Honorable Dave Nutter and the Honorable Jim Shuler to seek their assistance and support of this request before the Commonwealth Transportation Board.

ISSUE/PURPOSE: Request the Commonwealth Transportation Board to designate the portion of US 460 from the Giles/Montgomery County line to Southgate Drive as "William Preston Memorial Highway".

JUSTIFICATION: At the Board's January 24, 2011 meeting, representatives of the Historic Smithfield Plantation asked that the BoS request the Commonwealth Transportation Board (CTB) to designate the portion of US 460 from the Giles/Montgomery County line to Southgate Drive as "William Preston Memorial Highway". Colonel William Preston built the Smithfield Plantation in 1774. Colonel

Preston served as a member of the House of Burgesses and was the county lieutenant, sheriff, coroner and surveyor for Fincastle County. In 1776 when Montgomery County was formed, Colonel Preston was appointed as county lieutenant and had almost total authority over the new county's affairs.

The cost of the highway signs are approximately \$80 each. Funds have been donated to Historic Smithfield to cover the cost of four (4) signs.

**B. SUBJECT: RESOLUTION OF APPRECIATION
PARKS & RECREATION COMMISSION
SUSAN MILLER**

**R-FY-11-
RESOLUTION OF APPRECIATION
PARKS & RECREATION COMMISSION
SUSAN M. MILLER**

WHEREAS, Susan M. Miller has served the citizens of Montgomery County on the Parks and Recreation Commission from January 2005 through January 2011; and

WHEREAS, Susan M. Miller served as Chair of the Parks and Recreation Commission from January 2007 through the end of 2010; and

WHEREAS, The County recognizes the outstanding and dedicated service that *Susan M. Miller* has rendered the citizens of Montgomery County.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia, on behalf of the entire citizenship, extends a unanimous vote of appreciation and gratitude to **Susan M. Miller.**

BE IT FURTHER RESOLVED, That the original of this resolution be presented to *Susan M. Miller* and that a copy be made a part of the official minutes of Montgomery County.

XIII. INTO WORK SESSION

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Riner Rescue Squad

XIV. OUT OF WORK SESSION

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

XV. COUNTY ATTORNEY'S REPORT

XVI. COUNTY ADMINISTRATOR'S REPORT

XVII. BOARD MEMBERS' REPORT

1. Supervisor Creed
2. Supervisor Perkins
3. Supervisor Brown
4. Supervisor Biggs
5. Supervisor Marrs
6. Supervisor Muffo
7. Supervisor Politis

XVIII. OTHER BUSINESS

XIX. ADJOURNMENT

FUTURE MEETINGS

Adjourned Meeting
Monday, February 28 2011
6:00 p.m. – Closed Meeting Items
7:15 p.m. Regular Agenda

Special Meeting
FY 2012 Budget Presentation
Monday, March 7, 2011
5:00 p.m.

Regular Meeting
Monday, March 14, 2011
6:00 p.m. – Closed Meeting Items
7:15 p.m. Regular Agenda

Adjourned Meeting
Monday, March 28, 2011
6:00 p.m. – Closed Meeting Items
7:15 p.m. Regular Agenda